City of Lafayette Staff Report

For:	City Council
By:	Malathy Subramanian, City Attorney
Date Written:	October 1, 2008
Meeting Date:	November 10, 2008
Subject:	Ordinance 579 Repealing Chapter 56-4 of the Contra Costa County Code Entitled "Solicitors and Peddlers" and adding Chapter 4-4 of the Lafayette Municipal Code Entitled "Peddlers, Solicitors and Canvassers"

Background

The City Council previously considered Ordinance 579 "Peddlers, Solicitors and Canvassers" at its meeting on August 11, 2008. At that meeting, the Council expressed concern regarding the City prohibiting any person with a criminal record, no matter how old the record, from receiving a permit. The ordinance does not consider the possibility that a person with a criminal record may be rehabilitated and may seek a permit to restart his/her life. Based on this concern, the Council directed the Crime Prevention Commission to review this issue.

Analysis

Our research suggests that criminal justice scholars support the proposition that the likelihood of criminal recidivism decreases with the passage of time where no new crimes have been committed. However, finding clear statistical support for this proposition is difficult based on a variety of factors such as the high number of crimes that go unreported, the variance in results depending on how "recidivism" is defined, and the logistical difficulty involved in tracking offenders once they get off parole, which on average in California lasts only 13 months. We have attached the results from a study done on the issue by the California Department of Corrections for your review.

The Crime Prevention Commission has considered this information and the Council's comments and recommended revisions to the ordinance at several of its September and October meetings. Due to the limited background check provided in the ordinance, the Commission did not include a time frame after which a person with a criminal record could receive a permit. The Commission also discussed the meaning of "misdemeanors involving moral turpitude" and after much deliberation, removed the phrase "involving moral turpitude" from the ordinance. A more detailed analysis presented by Co-Chair Traci Reilly and Commissioner Kim Tejada has been attached to more fully explain the Commission's decision making process. The revised ordinance includes the Commission's revisions.

Recommendation

Discuss and consider Ordinance 579

Attachments

1. Ordinance 579 Repealing Chapter 56-4 of the Contra Costa County Code Entitled "Solicitors and Peddlers" and adding Chapter 4-4 of the Lafayette Municipal Code Entitled "Peddlers, Solicitors and Canvassers"
2. California Department of Correction Study on Recidivism Rates
3. Staff Report from Traci Reilly, Co-Chair Crime Prevention Commission and Kim Tejada, Crime Prevention Commissioner

BEFORE THE CITY COUNCIL OF THE CITY OF LAFAYETTE

IN THE MATTER OF:

An Ordinance of the City Council of the City of Lafayette Repealing Chapter 56-4 of the Contra Costa County Code Entitled "Solicitors and Peddlers" and Adding Chapter 4-4 of the Lafayette Municipal Code Entitled "Solicitors, Peddlers and Canvassers"	))))	Ordinance No. 579

WHEREAS, on February 24, 1975, the City Council of the City of Lafayette adopted Ordinance 131, adopting by reference Chapter 56-4, Article 56-4.202 through 56-4.1206, inclusive, of Title 5 of the Contra Costa County Code, titled "Solicitors and Peddlers;"

WHEREAS, those previously adopted provisions need to be updated in order to more clearly set out the requirements and regulations applicable to such persons within the City of Lafayette; be consistent with current First Amendment jurisprudence and to better protect residents from fraud and crime and to preserve residents' privacy in their homes;

WHEREAS, the City has seen increased incidents of vandalism and property damage committed by individuals aged 16 and older, which can include the use of motor vehicles; and

WHEREAS, to better protect residents from crime that might occur on their property, the permit requirements of this chapter shall only apply to persons over the age of 15 who are engaging in door-to-door peddling and soliciting; and

WHEREAS, the City of Lafayette desires to adopt its own regulations of door-to-door peddling and soliciting.

THE CITY COUNCIL OF THE CITY OF LAFAYETTE DOES ORDAIN AS FOLLOWS:

Section 1. Amendments. Chapter 56-4, Article 56-4.202 through 56-4.1206, entitled "Solicitors and Peddlers" is hereby repealed in its entirety and Chapter 4-4 of Title 4 of the Lafayette Municipal Code entitled "Peddlers, Solicitors and Canvassers" is hereby added to read as follows:

Chapter 4-4

PEDDLERS, SOLICITORS AND CANVASSERS

Section 4-401 Findings and Purpose.

(a) This Ordinance is based on the following findings:

(1) Unregulated door-to-door peddling and soliciting constitutes a serious concern for the City of Lafayette.

(2) The goal of protecting residents from fraud and crime and thereby promoting the safety and privacy of residences within the City is a legitimate, urgent, and substantial governmental objective.

(3) The City has a legitimate interest in preventing fraudulent or criminal activities which may result from unregulated peddling and soliciting.

(4) The City has a legitimate interest in protecting its residents' privacy by preventing unwanted peddling, soliciting and canvassing which is forced upon them.

(5) The City has a legitimate interest in protecting its residents' safety and privacy by reasonably limiting the hours of soliciting, peddling and canvassing and requiring permits in a content neutral manner.

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(6) All of these goals may properly be served by this narrowly tailored regulation which requires peddlers and solicitors to obtain a permit prior to engaging in any peddling or soliciting within the City, reasonably limits the hours of activities, and prohibits peddling, soliciting and canvassing of occupants on property where residents have posted a sign prohibiting such activities which complies with this chapter.

(b) The purpose of this chapter is to balance First Amendment rights and the health, safety and welfare of the City of Lafayette and its residents.

Section 4-402 Definitions.

For purposes of this chapter, the following definitions shall apply.

(a) "Peddling" includes the act of any person, whether a resident of the city or not, traveling by foot, vehicle, or any other type of conveyance, from door to door, place to place, house to house, or street to street, carrying, conveying, or transporting goods, wares, merchandise, other personal property of any nature or services in which the person deals. A person who engages in the act of peddling shall be referred to as a "peddler." (Prior Code §§56-4.204, 56-4.404.)

(b) "Soliciting" includes the act of any person, whether a resident of the city or not, traveling by foot, vehicle, or any other type of conveyance, from door to door, place to place, house to house, or street to street, requesting directly or indirectly, money, credit, personal property, or other thing of value or taking or attempting to take orders for the sale of goods, wares and merchandise, or personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future. A person who engages in the act of solicitation shall be referred to as a "solicitor." (Prior Code §56-4.206)

(c) "Canvassing" includes the act of any person, other than a peddler or a solicitor, whether a resident of the city or not, traveling by foot, vehicle, or any other type of conveyance, who goes from door to door, place to place, house to house, or street to street conducting a poll, survey, or petition drive, or sharing, communicating or otherwise conveying ideas, views or beliefs, or disseminating oral or written information to a person willing to directly receive such information, whether political, religious, commercial, non-commercial, charitable or otherwise. A person who engages in the act of canvassing shall be referred to as a "canvasser." (Added to code.)

(d) "Handbilling" includes the act of any person who casts, deposits, places, scatters or throws any commercial or noncommercial handbill, pamphlet, circular, newspaper, paper, booklet, poster, leaflet, or other printed matter onto the property of a business or residence in the absence of a subscription agreement. (Added to code.)

(e) "Person" shall mean any individual, group, firm, partnership, corporation, joint venture, company, club, association, religious organization, sect, denomination, society, league, and any other organization. (Prior Code §56-4.202.)

(f) "Police Department" shall mean the Lafayette Police Department.

Section 4-403 Permit--Required and Nontransferable.

It is unlawful for any person to peddle or solicit as described in Section 4-402(a) or 4-402(b) without having a permit from the City issued pursuant to this Chapter that is valid, unrevoked and in effect at all times. Such permit shall not be transferred to any person or used by any person other than the person named in and issued the permit.

(Prior Ord. §§56-4.402, 56-4.814.)

Section 4-404 Permit--Display Requirements.

Every solicitor or peddler, at all times while engaged in soliciting or peddling shall wear, or have in his or her immediate possession, a driver's license or other valid photo identification card, showing such peddler or solicitor's name and permanent address, and the permit issued to him or her by the Police Department pursuant to this

Chapter, and when so soliciting or peddling shall display the same upon demand of any police officer of the City and upon demand of any person to whom he or she is soliciting or peddling. (Prior Code §§56-4.816.) No person issued a permit shall alter, remove, or obliterate any entry made upon such permit, or deface such permit in any way. (Added to code.)

Section 4-405 Permit—Application and Issuance.

(a) An application for a peddlers and solicitors permit pursuant to this chapter shall be made to the Lafayette Police Department on a form provided by the Police Department, signed under penalty of perjury and accompanied by a fee as set by Resolution of the City Council which shall not exceed the actual cost of processing the application. Such application shall be filed with the Police Department. The Police Department shall verify the accuracy of the information set forth in the application and shall deny the permit if the application contains false information, if the applicant has ever been convicted of any felony or misdemeanor, or if the entity on whose behalf the applicant will be peddling or soliciting, where applicable, has previously been found to have engaged in fraudulent business practices. Otherwise, the permit shall be issued no more than five (5) business days following the Police Department's receipt of a completed application accompanied by the application fee.

(b) The application required in this chapter shall contain all of the following information:

(1) Name and birth date of the applicant;

(2) Permanent home address and local address of the applicant;

(3) The name and address of the person by whom the applicant is employed, if applicable;

(4) A brief description of the nature of the applicant's business and goods to be sold and the location and premises where the activity will be conducted;

(5) The length of time applicant has engaged in such business and the dates and places he has been engaged therein during the preceding five years;

(6) Statement as to whether or not the applicant holds a state license for such sales, and if so, copy of sales tax certificate issued by state and sales tax number;

(7) Statement setting forth the dates of permits granted to the applicant by the City for the preceding five years;

(8) Statement whether or not the applicant or any person financially interested in the business has ever been convicted of a felony, misdemeanor, or of a violation of a local agency ordinance, and if so, the nature of the offense, the date of such conviction and the sentence imposed, if any, and the court in which each conviction and sentence was entered.

(9) Statement whether or not the business on whose behalf applicant will be peddling or soliciting has ever been found to have engaged in fraudulent business practices.

(c) All such applications shall be accompanied by the fee established by the City Council. The application fee is not refundable.

(d) If while such application is pending, or during the term of any permit granted pursuant to this chapter, there is any change in fact that would alter the information given in the application, the applicant shall notify the Police Department in writing within 24 hours of such change. Such change in fact may constitute grounds for revocation.

(e) Such permit shall be valid for not more than 180 days following the date of issuance unless earlier revoked pursuant to this chapter.

(f) The permit shall bear the name and address of the person by whom the solicitation or sale is to be made, the

number of the permit, the date of issuance and expiration, and the kind of goods or services to be peddled or solicited pursuant to such permit, together with a statement that the permit does not constitute an endorsement by the City or any of its departments, officers or employees of the purpose of the person conducting the solicitation or sale.

(Sections (a)-(b) Prior Ord. §§56-4.602; 56-4.802; Sections (c)-(f) added to Code.)

Section 4-406 Permit--Revocation.

(a) Any permit applied for or issued pursuant to this chapter may be denied or revoked at any time by the Police Department for any of the following reasons:

(1) Fraud, misrepresentation or false statement contained in the application for a permit;

(2) Fraud, misrepresentation or false statement contained in the course of carrying on the activity authorized by such permit;

(3) Violation of any provision of this chapter;

(4) Conducting the activity authorized by the permit in an unlawful manner, or in such a manner as to cause a breach of the peace or as to constitute a menace to the health, safety, or general welfare of the public;

(5) Conviction of any felony, misdemeanor, or finding of fact that if known would have prevented the initial issuance of the permit; or

(6) Failure to pay any judgment arising from or connected with the activities authorized by the permit.

(b) The Police Department shall give written notice of the suspension or revocation of the permit to the permitte either in person or by mail at the address listed on the permittee's application.

(Prior Ord.§56-4.1204)

Section 4-407 Appeals--Procedure and Fee.

Any person aggrieved by any action of the City or Police Department pursuant to this chapter or who wishes to challenge the decision of the Police Department on any permit application including but not limited to the Police Department's decision to issue or deny a permit shall file a letter of appeal with the City Clerk within ten (10) days of the aggrieving action. The letter shall be addressed to the City Council, shall set forth the grounds for the appeal and shall be accompanied by permittee's appeal fee as established by resolution of the City Council. The City Council shall set the time and place for hearing such appeal, and written notice of such time and place shall by given to the applicant by the City Clerk either in person or by mail at the address listed in the permittee's application at least ten (10) days prior to the date set for the hearing at which hearing the applicant will present his case and any other interested person may present testimony for or against the applicant.

(Prior Ord. §56-4.1206.)

Section 4-408 Hearing and decision.

(a) At the time and place specified in the notice, or at such later time to which the hearing may be continued, the City Council shall hear the appeal.

(b) The applicant has the burden of presenting all necessary evidence from which findings required by this section may be made. The City Council may order a permit be issued to the applicant if it finds that all of the following conditions are satisfied:

(1) The application has been fully, accurately, and truthfully completed;

(2) The applicant has not been convicted of a felony or of any misdemeanor;

(3) The business for which the applicant proposes to peddle or solicit has never been found to have engaged in fraudulent business practices;

(4) Neither the applicant nor his operation is likely to be injurious to the public welfare; and

(5) All applicable laws and ordinances are complied with.

(c) If the City Council does not make all of these findings, it shall deny the appeal. The decision of the City Council is final.

(d) The City Council may impose reasonable conditions on the issuance of a permit which is granted upon appeal.

(Added to code.)

Section 4-409 Solicitation, Peddling or Canvassing where Sign Displayed is Prohibited.

(a) No peddler, solicitor, or canvasser shall ring the bell of, or knock on the door of, or attempt to gain admittance to any residential property, or contact or attempt to contact any occupant of any house or dwelling, where there is posted, affixed or otherwise displayed, in letters not less than one inch in height and clearly visible from the public right-of-way or normal entryway to such house or dwelling, a sign prohibiting such soliciting, peddling or canvassing.

(b) No peddler or solicitor shall attempt to peddle or solicit on any private commercial property, including those normally open to the general public, where there is posted at all entrances thereto, in letters not less than one inch in height, and clearly visible to persons entering, a sign or placard prohibiting such soliciting or peddling.

(Prior Ord. §56-4.408 (modified).)

Section 4-410 Solicitation Time Limitation.

No person shall engage in any act of peddling, soliciting, or canvassing between the hours of 6 p.m. and 9 a.m. local time, except by appointment.

(Added to code.)

Section 4-411 Books and Records.

Every person who engages in soliciting or peddling shall maintain a system of accounting whereby all monies collected by such person are entered upon the books or records of such person.

(Added to code.)

Section 4-412 Exemptions.

(a) The provisions of Section 4-403 shall not apply to the act of carrying, conveying, delivering or transporting milk, dairy products, newspapers or other goods, to regular customers on established routes, solicitation at wholesale or business premises within the city, or to charitable or religious solicitations that are conducted solely by members of said charity or religion, at regular assemblies, meetings, services.

(b) The provisions of Section 4-403 shall not apply to persons age 15 and under. These persons shall remain subject to all other applicable regulations set forth in this chapter.

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(c) Nothing in this chapter shall prohibit persons from distributing handbills door-to-door within the City without a permit. However, any act of handbilling shall comply with any regulation the City may from time to time adopt relating to the distribution of handbills.

(d) Nothing in this chapter shall prohibit persons from canvassing door-to-door within the City without a permit, subject to the regulations set forth in this chapter. Additionally, solicitation of donations made incidental to such canvassing is excluded from the permit requirements of this chapter.

(Added to code.)

Section 4-413 Violations and Penalties.

Engaging in or practicing any activity described in Section 4-402(a) or 4-402(b) without first having procured a permit to do so, or engaging in or practicing any activity described in Section 4-402(a), 4-402(b) or 4-402(c) without complying with any and all regulations of such activity contained in this chapter, constitutes a nuisance and a separate violation of this chapter for each and every day that such activity is so engaged in or carried on. In addition, any person who violates the provisions of this chapter shall be deemed guilty of an infraction for the first violation and a misdemeanor for each subsequent violation thereafter, and shall be subject to penalty as set forth in Section 1-302 of this Code.

(Added to code.)

Section 4-414 Enforcement.

It shall be the duty of the Police Department to investigate any complaints of violations of this chapter and to enforce the provisions of this chapter.

(Prior Ord. §56-4.1202.)

Section 3. CEQA. The City Council finds that adoption of this Ordinance is not a "project," as defined in the California Environmental Quality Act because it does not have a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and concerns general policy and procedure making.

Section 4. Notice of Exemption. The City Council directs staff to prepare and file a Notice of Exemption no more than five (5) working days after adoption of this Ordinance.

Section 5. Effective Date. This Ordinance becomes effective thirty (30) days after its adoption.

Section 6. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not effect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that one or more sections, subsections, subdivision, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective. To this end the provisions of this Ordinance are declared to be severable.

Section 7. Publication. The City Clerk shall either (a) have this Ordinance published in a newspaper of general circulation once within fifteen (15) days after its adoption, or (b) have a summary of this Ordinance published twice in a newspaper of general circulation, once five (5) days before its adoption and again within fifteen (15) days after adoption.

The foregoing Ordinance was introduced at a meeting of the City Council of the City of Lafayette held on ____, 2008 and was adopted and ordered published at a meeting of the City Council held on _____, 2008 by the following vote:

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AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

Joanne Robbins, City Clerk

APPROVED:

Mike Anderson, Mayor

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Recidivism Rates within Three, Five, Nine, and Ten plus Year Follow-up Periods for Felons Paroled As a New Admission and Parole Violator Returned with a New Term Supervision by the California Department of Corrections and Rehabilitation Released to Parole in 1990[1] By Principal Commitment Offense[8]

Principal Commitment Offense	Number Paroled[6]	Returned to Prison Within:[2]							
		Three Year		Five Years[3]		Nine Years[4]		Ten + Years[5]	
		Number[6]	Percent[7]	Number[6]	Percent[7]	Number[6]	Percent[7]	Number[6]	Percent[7]
Murder First (old law)	29	8	27.59%	8	27.59%	8	27.59%	8	27.59%
Murder First (new law)	3	1		1		1		1	
Murder Second (old law)	3	2		2		2		2	
Murder Second (new law)	8	3		3		3		3	
Manslaughter	462	193	41.77%	201	43.51%	202	43.72%	202	43.72%
Vehicular Manslaughter	190	59	31.05%	61	32.11%	61	32.11%	62	32.63%
Robbery	3,705	2,447	66.05%	2,476	66.83%	2,493	67.29%	2,497	67.40%
Assault/Deadly WP	1,852	1,074	57.99%	1,094	59.07%	1,106	59.72%	1,109	59.88%
Attempted Murder First	79	44	55.70%	44	55.70%	44	55.70%	44	55.70%
Attempted Murder Second	97	47	48.45%	48	49.48%	49	50.52%	49	50.52%
Other Assault/Battery	854	507	59.37%	514	60.19%	516	60.42%	517	60.54%
Rape	383	201	52.48%	207	54.05%	209	54.57%	209	54.57%
Lewd Act With Child	914	324	35.45%	335	36.65%	342	37.42%	344	37.64%
Oral Copulation	150	67	44.67%	72	48.00%	73	48.67%	73	48.67%
Sodomy	36	9	25.00%	9	25.00%	9	25.00%	9	25.00%
Sexual Penetration with Object	37	16	43.24%	16	43.24%	17	45.95%	17	45.95%
Other Sex	149	81	54.36%	81	54.36%	81	54.36%	81	54.36%
Kidnapping	132	67	50.76%	70	53.03%	70	53.03%	70	53.03%
Burglary First	3,642	2,347	64.44%	2,369	65.05%	2,376	65.24%	2,381	65.38%
Burglary Second	3,280	2,402	73.23%	2,427	73.99%	2,444	74.51%	2,448	74.63%
Grand Theft	1,811	1,151	63.56%	1,161	64.11%	1,168	64.49%	1,171	64.66%
Petty Theft With Prior	2,572	1,953	75.93%	1,984	77.14%	1,989	77.33%	1,989	77.33%
Receiving Stolen Property	1,515	1,131	74.65%	1,141	75.31%	1,145	75.58%	1,146	75.64%
Vehicle Theft	1,689	1,262	74.72%	1,275	75.49%	1,281	75.84%	1,283	75.96%
Forgery/Fraud	844	472	55.92%	486	57.58%	490	58.06%	491	58.18%
Other Property	267	156	58.43%	159	59.55%	161	60.30%	161	60.30%
CS Possession	6,903	4,646	67.30%	4,719	68.36%	4,745	68.74%	4,752	68.84%
CS Possession for Sale	4,342	2,048	47.17%	2,079	47.88%	2,089	48.11%	2,096	48.27%
CS Sales	3,494	1,858	53.18%	1,877	53.72%	1,893	54.18%	1,898	54.32%
CS Manufacturing	122	36	29.51%	36	29.51%	36	29.51%	36	29.51%
CS Other	440	312	70.91%	314	71.36%	317	72.05%	318	72.27%
Hashish Possession	11	9		9		9		9	
Marijuana Possession for Sale	447	217	48.55%	219	48.99%	225	50.34%	225	50.34%
Marijuana Sale	632	325	51.42%	332	52.53%	332	52.53%	333	52.69%
Marijuana Other	44	13	29.55%	13	29.55%	13	29.55%	13	29.55%
Escape	164	121	73.78%	122	74.39%	123	75.00%	124	75.61%
Driving Under Influence	2,151	872	40.54%	891	41.42%	896	41.66%	897	41.70%
Arson	170	97	57.06%	97	57.06%	98	57.65%	98	57.65%
Possession Weapon	883	628	71.12%	631	71.46%	631	71.46%	631	71.46%
Other Offenses	308	160	51.95%	164	53.25%	164	53.25%	168	54.55%
TOTAL	**44,814**	**27,366**	**61.07%**	**27,747**	**61.92%**	**27,911**	**62.28%**	**27,965**	**62.40%**

[1] Include those paroled as a New Admission (NA), Parole Violator Returned with a New Term (PV_WNT)
[2] Returns to prison on new court commitments following discharge on this parole are not included.
[3] Returns within five years include returns within three year.
[4] Returns within nine years include returns within three and five years.
[5] Returns within ten plus years include returns within three, five, and nine years.
[6] Numbers may have changed from prior version of report based on updated data.
[7] Percentages not computed for less than 20 releases to parole.
[8] Unknown/missing principal commitment offense are not included.

Recidivism Rates within Three, Five, Nine, and Ten plus Year Follow-up Periods for Female Felons Paroled As a New Admission and Parole Violator Returned with a New Term Supervision California Department of Corrections and Rehabilitation

Released to Parole in 1990[1]

By Principal Commitment Offense[8]

Principal Commitment Offense	Number Paroled [6]	Returned to Prison Within:[2]							
		Three Year		Five Years [3]		Nine Years [4]		Ten + Years [5]	
		Number [6]	Percent [7]	Number [6]	Percent [7]	Number [6]	Percent [7]	Number [6]	Percent [7]
Murder First (old law)	0	0		0		0		0	
Murder First (new law)	0	0		0		0		0	
Murder Second (old law)	0	0		0		0		0	
Murder Second (new law)	0	0		0		0		0	
Manslaughter	64	15	23.44%	18	28.13%	18	28.13%	18	28.13%
Vehicular Manslaughter	20	5	25.00%	6	30.00%	6	30.00%	6	30.00%
Robbery	235	126	53.62%	126	53.62%	128	54.47%	128	54.47%
Assault/Deadly WP	101	43	42.57%	45	44.55%	45	44.55%	45	44.55%
Attempted Murder First	6	2		2		2		2	
Attempted Murder Second	0	0		0		0		0	
Other Assault/Battery	44	15	34.09%	15	34.09%	15	34.09%	15	34.09%
Rape	1	1		1		1		1	
Lewd Act With Child	6	5		5		5		5	
Oral Copulation	3	1		2		2		2	
Sodomy	0	0		0		0		0	
Sexual Penetration with Object	0	0		0		0		0	
Other Sex	8	2		2		2		2	
Kidnapping	5	1		1		1		1	
Burglary First	197	106	53.81%	110	55.84%	111	56.35%	111	56.35%
Burglary Second	219	139	63.47%	146	66.67%	147	67.12%	147	67.12%
Grand Theft	223	92	41.26%	93	41.70%	95	42.60%	95	42.60%
Petty Theft With Prior	563	383	68.03%	391	69.45%	391	69.45%	391	69.45%
Receiving Stolen Property	94	56	59.57%	58	61.70%	59	62.77%	59	62.77%
Vehicle Theft	57	31	54.39%	31	54.39%	32	56.14%	32	56.14%
Forgery/Fraud	234	111	47.44%	120	51.28%	120	51.28%	120	51.28%
Other Property	66	32	48.48%	34	51.52%	34	51.52%	34	51.52%
CS Possession	883	495	56.06%	513	58.10%	518	58.66%	521	59.00%
CS Possession for Sale	436	151	34.63%	154	35.32%	154	35.32%	154	35.32%
CS Sales	354	152	42.94%	153	43.22%	157	44.35%	157	44.35%
CS Manufacturing	8	1		1		1		1	
CS Other	49	27	55.10%	27	55.10%	27	55.10%	27	55.10%
Hashish Possession	0	0		0		0		0	
Marijuana Possession for Sale	26	11	42.31%	11	42.31%	11	42.31%	11	42.31%
Marijuana Sale	29	14	48.28%	15	51.72%	15	51.72%	15	51.72%
Marijuana Other	2	0		0		0		0	
Escape	18	13		13	72.22%	13	72.22%	13	72.22%
Driving Under Influence	80	27	33.75%	28	35.00%	28	35.00%	28	35.00%
Arson	21	11	52.38%	11	52.38%	11	52.38%	11	52.38%
Possession Weapon	15	12		12		12		12	
Other Offenses	38	13	34.21%	15	39.47%	15	39.47%	16	42.11%
TOTAL	**4,105**	**2,093**	**50.99%**	**2,159**	**52.59%**	**2,176**	**53.01%**	**2,180**	**53.11%**

[1] Include those paroled as a New Admission (NA), Parole Violator Returned with a New Term (PV_WNT)
[2] Returns to prison on new court commitments following discharge on this parole are not included.
[3] Returns within five years include returns within three year.
[4] Returns within nine years include returns within three and five years.
[5] Returns within ten plus years include returns within three, five, and nine years.
[6] Numbers may have changed from prior version of report based on updated data.
[7] Percentages not computed for less than 20 releases to parole.
[8] Unknown/missing principal commitment offense are not included.

Reference pgm: W/research/sas pgms/recidivism request/recid 10plus yrs pgm.sas/bv
Reference doc: W:\Research\Data Requests\Recidivism 3yrs request\recid 10plus yrs.xls\bv

Recidivism Rates within Three, Five, Nine, and Ten plus Year Follow-up Periods for Male Felons Paroled As a New Admission and Parole Violator Returned with a New Term Supervision California Department of Corrections and Rehabilitation Released to Parole in 1990[1] By Principal Commitment Offense[8]

Principal Commitment Offense	Number Paroled [6]	Returned to Prison Within:[2]							
		Three Year		Five Years [3]		Nine Years [4]		Ten + Years [5]	
		Number [6]	Percent [7]	Number [6]	Percent [7]	Number [6]	Percent [7]	Number [6]	Percent [7]
Murder First (old law)	29	8	27.59%	8	27.59%	8	27.59%	8	27.59%
Murder First (new law)	3	1		1		1		1	
Murder Second (old law)	3	2		2		2		2	
Murder Second (new law)	8	3		3		3		3	
Manslaughter	398	178	44.72%	183	45.98%	184	46.23%	184	46.23%
Vehicular Manslaughter	170	54	31.76%	55	32.35%	55	32.35%	56	32.94%
Robbery	3,470	2,321	66.89%	2,350	67.72%	2,365	68.16%	2,369	68.27%
Assault/Deadly WP	1,751	1,031	58.88%	1,049	59.91%	1,061	60.59%	1,064	60.77%
Attempted Murder First	73	42	57.53%	42	57.53%	42	57.53%	42	57.53%
Attempted Murder Second	97	47	48.45%	48	49.48%	49	50.52%	49	50.52%
Other Assault/Battery	810	492	60.74%	499	61.60%	501	61.85%	502	61.98%
Rape	382	200	52.36%	206	53.93%	208	54.45%	208	54.45%
Lewd Act With Child	908	319	35.13%	330	36.34%	337	37.11%	339	37.33%
Oral Copulation	147	66	44.90%	70	47.62%	71	48.30%	71	48.30%
Sodomy	36	9	25.00%	9	25.00%	9	25.00%	9	25.00%
Sexual Penetration with Object	37	16	43.24%	16	43.24%	17	45.95%	17	45.95%
Other Sex	141	79	56.03%	79	56.03%	79	56.03%	79	56.03%
Kidnapping	127	66	51.97%	69	54.33%	69	54.33%	69	54.33%
Burglary First	3,445	2,241	65.05%	2,259	65.57%	2,265	65.75%	2,270	65.89%
Burglary Second	3,061	2,263	73.93%	2,281	74.52%	2,297	75.04%	2,301	75.17%
Grand Theft	1,588	1,059	66.69%	1,068	67.25%	1,073	67.57%	1,076	67.76%
Petty Theft With Prior	2,009	1,570	78.15%	1,593	79.29%	1,598	79.54%	1,598	79.54%
Receiving Stolen Property	1,421	1,075	75.65%	1,083	76.21%	1,086	76.43%	1,087	76.50%
Vehicle Theft	1,632	1,231	75.43%	1,244	76.23%	1,249	76.53%	1,251	76.65%
Forgery/Fraud	610	361	59.18%	366	60.00%	370	60.66%	371	60.82%
Other Property	201	124	61.69%	125	62.19%	127	63.18%	127	63.18%
CS Possession	6,020	4,151	68.95%	4,206	69.87%	4,227	70.22%	4,231	70.28%
CS Possession for Sale	3,906	1,897	48.57%	1,925	49.28%	1,935	49.54%	1,942	49.72%
CS Sales	3,140	1,706	54.33%	1,724	54.90%	1,736	55.29%	1,741	55.45%
CS Manufacturing	114	35	30.70%	35	30.70%	35	30.70%	35	30.70%
CS Other	391	285	72.89%	287	73.40%	290	74.17%	291	74.42%
Hashish Possession	11	9		9		9		9	
Marijuana Possession for Sale	421	206	48.93%	208	49.41%	214	50.83%	214	50.83%
Marijuana Sale	603	311	51.58%	317	52.57%	317	52.57%	318	52.74%
Marijuana Other	42	13	30.95%	13	30.95%	13	30.95%	13	30.95%
Escape	146	108	73.97%	109	74.66%	110	75.34%	111	76.03%
Driving Under Influence	2,071	845	40.80%	863	41.67%	868	41.91%	869	41.96%
Arson	149	86	57.72%	86	57.72%	87	58.39%	87	58.39%
Possession Weapon	868	616	70.97%	619	71.31%	619	71.31%	619	71.31%
Other Offenses	270	147	54.44%	149	55.19%	149	55.19%	152	56.30%
TOTAL	**40,709**	**25,273**	**62.08%**	**25,588**	**62.86%**	**25,735**	**63.22%**	**25,785**	**63.34%**

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City of Lafayette Staff Report

For:	**City Council**
By:	**Traci Reilly and Kim Tejada**
Date Written:	**July 23rd, 2008**
Meeting Date:	**November 10th, 2008**
Subject:	**Repealing Chapter 56-4 of the Contra Costa County Code Entitled "Solicitors and Peddlers" and adding Chapter 4-4 of the Lafayette Municipal Code Entitled "Solicitors, Peddlers and Canvassers".**

Introduction

"Analysis"

The Crime Prevention Commission considered the information provided by the City Attorney's office on recidivism. These statistics were received from the California Department of Corrections and Rehabilitation (CDCR). The CDCR's statistical data regarding recidivism does show a decrease over time, but it is difficult to find clear statistical support for this proposition. The factors that are involved are that a high number of crimes that go unreported, the variance in results depending on how "recidivism" is defined, and the logistical difficulty involved in tracking offenders once they get off parole, which in California lasts only 13 months.

While the data from CDCR is useful, it is a significantly limited resource. For example, the data reviewed does not account for the person who completes parole, is released, and then commits a new crime. Moreover, none of this information includes the substantial number of men and women who are on felony or misdemeanor probation. [Probation has similarities to Parole in that there are methods of monitoring individuals, there are restrictions and directives of conduct out of custody, and there are consequences for violations of Probation agreements.]

Additionally, in relying upon several Commissioners' professional experience in the Criminal Justice System, many times crimes for which a person gets arrested originally often get reduced to lesser charges during the court's disposition of cases. This yields a court record of conviction for a crime section that may falsely inform a reviewer about such records. As an example, an arrest for solicitation of a prostitute, Penal Code 647a/b, is commonly negotiated to a disposition of Penal Code 415, which is commonly referred to as "disturbing the peace."

During the regular meeting on 9/24/08, The Crime Prevention also explored the meaning of crimes involving "moral turpitude" at the suggestion of City Council in the 8/11/08 council meeting. The term has not been narrowly defined. The crimes that are consistently classified as crimes of moral

turpitude have been done so through the courts in a case-by-case basis. As a general guideline, the term Moral Turpitude has been described for convictions of crimes that involve "dishonesty" (People v. Parrish 1985 170 CA3d 336, 217 CR 700), or crimes that demonstrate "a general readiness to do evil" (People v. Jackson 1985 169 CA3d 260, 220 CR39). There is not an actual list of all crimes that are labeled as ones of "moral turpitude." There are published lists of approximately 36 crimes that have been litigated to date and have been shown involve moral turpitude. Because there is no absolute list, the research needed and potential discretionary decision-making by the Lafayette Police Department creates an undue burden on the police department. And, as indicated earlier, since a conviction may be for a lesser offense than the original criminal conduct due to plea bargained disposition, a conviction may show as a crime that is not of moral turpitude, even when the original offense was. An excellent example of this is the burglar who is arrested while fleeing from the victim residence drops or disposes of the stolen property. The property is recovered, but yields no fingerprints or other corroborative data to support the burglary charge. The person's charges are reduced to a misdemeanor of trespassing, which does not fall in a category of moral turpitude.

For the reasons described above, The Crime Prevention Commission removed the phrase "involving moral turpitude" from the previous ordinance language and did not include a time frame after which a person with a criminal record could receive a permit. The revised ordinance includes the Commission's revisions.

Fiscal Impact

Minimal staff time to process applications. Once adopted the city will receive a fee set by City Council, recommended fee $25.00 per applicant.

Recommendation

Adopt Ordinance 579 adding Chapter 4-4 of the Lafayette Municipal Code "Solicitors, Peddlers and Canvassers".

Attachments

Draft Ordinance 579 "Solicitors, Peddlers and Canvassers"